P.R. No. 3059/06
Presented by Shri Himanshu Das
dated 26/6/06

c.f 2001

SINGLE BENCH

(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W.P.NO. 3015 / 2006

Petitioners :

1) Dr.Madhu Bhavan Naidu
S/o Shri Vemkat Krishnesh, Aged about 29 years, R/o Dahi, Post Kujhi, Tahsil Dhar, Distt. Dhar (M.P.)

2) Dr.Praveen Agrawal,
S/o Shri Gopal Narayan Agrawal, Aged about 29 years, R/o 3/1 Thatipur Colony, Murar, Gwalior (M.P.)

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26/6/06

Versus

Respondents :

1) The State of Chhattisgarh:
Through the Secretary, Health Education Department, D.K.S. Bhawan, Raipur (C.G.)

2) The Director,
Medical Education, State of Chhattisgarh, D.K.S. Campus, Raipur (C.G.)

3) The Dean,
Pt. Jawahar Lal Nehru Memorial Medical College, Raipur (C.G.)

4) Dr. S.N.Adile, Member of Counseling Committee, Pt.Jawaharlal Nehru Memorial College, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...W.P.NO.3015/06... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

28/06/2006

Shri P.Diwakar, Sr. Advocate with Shri P.R. Patankar, Counsel for the petitioners.

Shri Sanjay S. Agrawal, Govt. Advocate for the respondents.

Heard.

Both the petitioners passed their Graduation (M.B.B.S) from Medical College, Raipur. They also completed their rotatory internship from the same college. They appeared in Pre-P.G. examination and cleared the same, but were in the waiting list. Petitioners took a calculated risk for future and chose to opt for waiting list. Revised time schedule for admission to P.G. Courses was approved by Hon'ble the Apex Court and the last date has been fixed as 30th June, 2006. This Court while passing judgment in Writ Petition No.2448/2004 on 05/10/2004 directed the State to convert Assistant Surgeon quota seats into general quota seats. In view of the revised schedule approved by Hon'ble the Apex Court, State of Chhattisgarh decided to conduct counseling on 23/06/2006, but did not notify the available seats. This Court issued direction in Writ Petition No.2454/2006 on 20/06/2006 to publish all the seats available with them one day prior to the date of counseling i.e., 23/06/2006. Pursuant to that, vacant seats including Assistant Surgeon quota seats which were converted into general quota seats for allotment in counseling were published on 22/06/2006 and counseling took place on 23/06/2006.

(पीछे देखिये)

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मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का क आदेश ांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

On 23/06/2006 counseling was started. Petitioner No.1 who was at Sl. No.7 was called, at that time P.G. seats of his option like DMRD, DCH, MS (Ophthalmology), MD (Gynaec), MS (ENT), D. (Orth) were vacant. He exercised his option for DMRD, but all of a sudden after completion of all the formalities, he was refused admission for non-submission of bona fide resident certificate. Petitioner No.2 who was at Sl. No.8 was called and he was flatly refused admission on the ground that he has not submitted the bona fide resident certificate. Both the petitioners were fulfilling the eligibility criteria, but were refused admission on such a fake pretext, even counseling was completed but those four seats of Assistant Surgeon quota were not allotted to any one and a fresh notification for those four seats was published offering candidates for counseling on 30/06/2006.

The entire counseling as conducted by respondents on 23/06/2006 is illegal and arbitrary and against the rules and that deserves to be quashed. Therefore, the instant petition has been filed claiming a fresh counseling along with an application for interim relief.

Learned counsel for the petitioners contended that both the petitioners have been denied admission for non-submission of bona fide resident certificate whereas no such certificate is required to be filed by the petitioners. The whole career of both the

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioners shall be ruined and their future will dwell in dark if such a unlawful counseling is not set aside and no re-counseling is ordered. On the contrary, learned counsel for respondents urged that no doubt rules do not require submission of bona fide resident certificate and petitioners cannot be deprived of from admission on the pretext of non submission of such certificate, but re-counseling will affect a large number of candidates who already appeared on 23/06/2006 and were admitted for P.G. Course and without affording opportunity to all of them if re-counseling is done, that will cause prejudice to them.

Admittedly, both the petitioners were entitled for participating and selecting subject of their choice from the vacant seats on 23/06/2006, but were deprived of from admission and the conduct of members of counseling committee who did not allow them to admit in P.G. Course on a lame excuse of non-submission of bona fide resident certificate was not in accordance with law/rules.

In case of re-counseling, others who participated on 23/06/2006 shall also be eligible for fresh choice and may get subject of their choice, if available in their turn, therefore, fresh re-counseling will not cause prejudice to those candidates who already faced the same on 23/06/2006, on the other hand, refusing re-counseling will hamper the valuable constitutional rights of the petitioners.

(पीछे देखिये)

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Last date up to which students can be admitted against vacant seats arising due to any reason is 30/06/2006 as approved by Hon'ble the Supreme Court. Taking into consideration all the facts and the date approved by Hon'ble the Supreme Court, it is directed that by 30/06/2006 counseling and admission for all the vacant seats including those for which counseling was conducted on 23/06/2006 and admissions were allowed, shall be completed by fresh counseling/admission by the respondents/concerned authorities, allowing both the petitioners without demanding bona fide resident certificate from them to appear and participate the counseling/admission process for getting admission in P.G. Course in accordance with law/rules, if otherwise eligible. However, this order shall not affect to a candidate who has already admitted to any P.G. Course as a result of counseling on 23/06/2006 who for any reason fails to appear and participate on 30/06/2006, if re-counseling does not affect his choice. In the light of above order, the instant petition (W.P.No. 3015/2006), M.W.P.No.2305/2006 and I.A.No.6030/2006 stand disposed of. Certified copy as per rules.	Sd/- V.K.Shrivastava Judge

Raju

29.8.06

[पीछे देखिये